

Clerk, U.S. District Court
Southern District of Texas
FILED

A091 (Rev. 8/01) Criminal Complaint

APR 14 2015

David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXASUNITED STATES OF AMERICA
V.Francisco CHAVERA
& Christopher Brian BERNAL

CRIMINAL COMPLAINT

Case Number: C-15-426 M

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about 4/12/2015 in Brooks County, in the
(Date)

Southern District of Texas defendant(s) **Francisco CHAVERA**
& Christopher Brian BERNAL

each aiding, abetting and assisting one another, did knowingly or in a reckless disregard of the fact that an alien had come to, entered, or remained in the United States in violation of law, transport, or move or attempt to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law

in violation of Title 8 United States Code, Section(s) 1324
I further state that I am a(n) Border Patrol Agent and that this complaint is based on the
following facts:

See Attached Affidavit of U.S. Border Patrol Agent **Edwin Lopez**

Continued on the attached sheet and made a part of this complaint:

Yes No

Signature of Complainant

Edwin Lopez

Printed Name of Complainant

Sworn to before me and signed in my presence, and probable cause found on:

April 14, 2015

Date

Jason B. Libby, U.S. Magistrate Judge

Name and Title of Judicial Officer

at

Corpus Christi, Texas

City and State

Signature of Judicial Officer

AFFIDAVIT

The information contained in this report/affidavit is based upon my personal participation in the investigation, which included, but is not limited to information related to me by other agents and officers participating in the investigation.

On April 12, 2015, Border Patrol Agent Sean Williams and Border Patrol Agent Sean Massie encountered and arrested Francisco CHAVERA and Christopher BERNAL for Alien Smuggling. CHAVERA and BERNAL were arrested subsequent to a bailout in which Jesus TUN-Churunel was also arrested and approximately three other individual absconded. This bailout occurred on County Road 405 just west of US Highway 281 in Falfurrias, Texas.

On April 12, 2015, Border Patrol Agent Sean Williams and Border Patrol Agent Sean Massie received a concerned citizen report of a black GMC pickup (LP: TX BLG-8433, loading up multiple subjects coming out of the brush on FM 3066. As Agents Williams and Massie departed the Falfurrias Border Patrol Station to respond, they had their marked unit's emergency equipment activated due to the time sensitive nature of the situation. Upon turning west onto County Road 300, Agents Williams and Massie observed a Black GMC Pickup turning left from Highline road onto County Road 405 in front of their location. The Black GMC pickup truck immediately braked and pulled off to the side of the road. The back doors of the GMC pickup truck opened abruptly and agents observed at least four male subjects exit the vehicle and abscond into the brush.

The driver of the vehicle, later identified as Francisco CHAVERA, and front passenger, later identified as Christopher BERNAL, remained in the black GMC pickup truck. Agent Massie exited the marked unit and gave chase after the absconding subjects while Agent Williams placed both CHAVERA and BERNAL under arrest for 8 USC 1324 Alien Smuggling. At that time, Agent Williams asked CHAVERA if he was a United States Citizen, which he claimed he was. Agent Williams then asked BERNAL if he was a United States Citizen, which he claimed he was.

Both CHAVERA and BERNAL were armed with knives in their front right pockets. The knives were seized as evidence. Both CHAVERA and BERNAL notified Agent Williams of possessing pocket knives prior being pat down for weapons.

Agent MASSIE was able to apprehend one of the absconding male subjects, later identified as Jesus TUN-Churunel. TUN was asked his country of citizenship and freely admitted to being a citizen and national of Guatemala illegally present in the United States without the proper documentation. As a result, TUN was placed under arrest. At the time of his arrest, TUN had one cellular phone labeled "#2" and a compass in his possession.

CHAVERA, BERNAL, and TUN were transported back to the Falfurrias Border Patrol Station in separate vehicles for further processing.

MIRANDA WARNING:

TUN was read his Miranda Rights by Agent Williams as per Service Form I-214 and witnessed by Agent Massie. TUN stated he understood his rights and agreed to make a voluntary statement without the presence of an attorney.

CHAVERA was read his Miranda Rights as per Service Form I-214 by Agent Massie and witnessed by Border Patrol Agent Brandon Parsons. CHAVERA stated he understood his rights and agreed to make a voluntary statement without the presence of an attorney.

BERNAL was read his Miranda Rights as per Service Form I-214 by Agent Massie and witnessed by Agent Parsons. BERNAL stated he understood his rights and agreed to make a voluntary statement without the presence of an attorney.

PRINCIPAL STATEMENT:

CHAVERA claimed he and his nephew BERNAL received a call from a known smuggler he knows as "Bodega" around 10:00 in the morning. CHAVERA stated "Bodega" instructed him to pick up a group of illegal aliens on Farm Road 3066 around 2:00 in the afternoon, near a road that is also known as Creek road. CHAVERA claimed he was going to take them through Alice, Texas to Houston, Texas in his brother-in-law's black GMC Sierra. CHAVERA claimed he did not know the exact amount he was going to get paid, but he guessed he would get paid approximately \$1000 upon arriving in Houston and successfully dropping off the illegal aliens. When asked about BERNAL, CHAVERA claimed he invited BERNAL along for the trip to go to Houston with him because he is his nephew. CHAVERA stated he didn't run because he thought he would get out again the same day like last time he got caught. CHAVERA also claimed to be a Latin Kings Gang Member based out of Alice, Texas.

BERNAL was interviewed and confirmed CHAVERA's storyline above. BERNAL claimed he needed money because has no job and has a girlfriend 6 months pregnant. BERNAL also claimed to be a Surreno Southside Gang Member based out of Alice, Texas.

MATERIAL WITNESS STATEMENT:

TUN is a Guatemalan National without any US Immigration documents to be in or remain in the US legally. TUN claims that he never saw the driver or the front passenger and was unable to pick the driver out in a photo lineup. However, he was asked what kind of car he was loaded into after being picked up out of the brush with his group, he identified it as a black pickup truck. When he was shown a picture of the seized black GMC pickup truck utilized in this alien smuggling attempt, TUN claimed the truck looked just like that and was the one he got into. TUN further stated it is the same one he jumped out of when trying to get away from the border patrol agents during the bailout. When shown pictures of the inside of the truck, TUN was also able to identify a blue backpack that was left behind on the backseat after the bailout. TUN identified it as being the backpack of one of the male subjects in his group that he was traveling with. TUN claimed there were five illegal subjects in his group.

All subjects were interviewed and gave sworn statements. Both BERNAL and CHAVERA admitted to knowing the subjects getting into their vehicle were illegal and knew it was illegal to transport illegal aliens to Houston, Texas. They also agreed that CHAVERA would take care of trip expenses for both of them.

Consent was received by all three subjects to search through their cellular devices. CHAVERA has a text message containing a picture of BERNAL, an aggravated Felon, holding a .22 caliber assault rifle where he bragged to have just purchased in the text message. Text messages revealed a third party playing a role in this event with messages on both of the principal's phones telling them they had received calls from the illegal aliens and they were ready for pickup. CHAVERA's phone contains multiple contacts titled Driver #1, Driver #2, and unknowns out of the Houston Area Code. CHAVERA claims to not know any of those numbers. BERNAL's phone contains text messages revealing a conversation between him and CHAVERA about CHAVERA paying BERNAL \$300.00 to assist him.

The facts of this case were presented to Assistant United States Attorney Sam Brown who accepted Francisco CHAVERA and Christopher BERNAL for prosecution of 8 USC 1324, Alien Smuggling. Jesus TUN-Churunel is being held as material witnesses in this case.



Edwin Lopez Border Patrol Agent

Sworn to before me, signed in my presence, and
probable cause found on this day, April 14th, 2015



Jason B. Libby
United States Magistrate Judge